

Passenger Rail Investment and Improvement Act of 2008

[Division B of Public Law 110–432]

[As Amended Through P.L. 117–58, Enacted November 15, 2021]

【Currency: This publication is a compilation of the text of Public Law 110–432. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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DIVISION A—RAIL SAFETY

SEC. 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF TITLE 49.

(a) **SHORT TITLE.**—This division may be cited as the “Rail Safety Improvement Act of 2008”.

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TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

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SEC. 209. [49 U.S.C. 20901 note] ACCIDENT AND INCIDENT REPORTING.

The Federal Railroad Administration shall conduct an audit of each Class I railroad at least once every 2 years and conduct an audit of each non-Class I railroad at least once every 5 years to ensure that all grade crossing collisions and fatalities are reported to any Federal national accident database.

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DIVISION B—AMTRAK

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SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This division may be cited as the “Passenger Rail Investment and Improvement Act of 2008”.

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TITLE II—AMTRAK REFORM AND OPERATIONAL IMPROVEMENTS

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SEC. 205. [49 U.S.C. 24101 note] RESTRUCTURING LONG-TERM DEBT AND CAPITAL LEASES.

(a) **IN GENERAL.**—The Secretary of the Treasury, in consultation with the Secretary and Amtrak, may make agreements to restructure Amtrak’s indebtedness, to the extent provided in advance in appropriations Acts.

(b) **DEBT RESTRUCTURING.**—To the extent amounts are provided in advance in appropriations Acts, the Secretary of the Treasury, in consultation with the Secretary and Amtrak, shall enter into negotiations with the holders of Amtrak debt, including leases, outstanding for the purpose of restructuring (including repayment) and repaying that debt. The Secretary of the Treasury may secure agreements for restructuring or repayment on such terms as the Secretary of the Treasury deems favorable to the interests of the United States Government.

(c) **CRITERIA.**—In restructuring Amtrak’s indebtedness, the Secretary of the Treasury and Amtrak—

(1) shall take into consideration repayment costs, the term of any loan or loans, and market conditions; and

(2) shall ensure that the restructuring results in significant savings to Amtrak and the United States Government.

(d) **PAYMENT OF RENEGOTIATED DEBT.**—If the criteria under subsection (c) are met, the Secretary of the Treasury may assume or repay the restructured debt, as appropriate, to the extent provided in advance in appropriations Acts.

(e) **AMTRAK PRINCIPAL AND INTEREST PAYMENTS.**—

(1) **PRINCIPAL ON DEBT SERVICE.**—Unless the Secretary of the Treasury makes sufficient payments to creditors under subsection (d) so that Amtrak is required to make no payments to creditors in a fiscal year, the Secretary shall use funds authorized for the use of Amtrak for retirement of principal or payment of interest on loans for capital equipment, or capital leases.

(2) **REDUCTIONS IN AUTHORIZATION LEVELS.**—Whenever action taken by the Secretary of the Treasury under subsection (a) results in reductions in amounts of principal or interest that Amtrak must service on existing debt, the corresponding amounts authorized for Amtrak shall be reduced accordingly.

(f) **LEGAL EFFECT OF PAYMENTS UNDER THIS SECTION.**—The payment of principal and interest on secured debt, other than debt assumed under subsection (d), with the proceeds of grants under subsection (e) shall not—

(1) modify the extent or nature of any indebtedness of Amtrak to the United States in existence;

(2) change the private nature of Amtrak's or its successors' liabilities; or

(3) imply any Federal guarantee or commitment to amortize Amtrak's outstanding indebtedness.

(g) **SECRETARY APPROVAL.**—Amtrak may not incur more debt after the date of enactment of this Act without the express advance approval of the Secretary, unless that debt receives credit assistance, including direct loans and loan guarantees, under chapter 6 of title 23, United States Code or chapter 224 of title 49, United States Code.

【Section 206 was repealed by section 11202(c)(1) of division A of Public Law 114–94.】

SEC. 207. [49 U.S.C. 24101 note] METRICS AND STANDARDS.

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act, the Federal Railroad Administration and Amtrak shall jointly, in consultation with the Surface Transportation Board, rail carriers over whose rail lines Amtrak trains operate, States, Amtrak employees, nonprofit employee organizations representing Amtrak employees, and groups representing Amtrak passengers, as appropriate, develop new or improve existing metrics and minimum standards for measuring the performance and service quality of intercity passenger train operations, including cost recovery, on-time performance and minutes of delay, ridership, on-board services, stations, facilities, equipment, and other services. Such metrics, at a minimum, shall include the percentage of avoidable and fully allocated operating costs covered by passenger revenues on each route, ridership per train mile operated, measures of on-time performance and delays incurred by intercity passenger trains on the rail lines of each rail carrier and, for long-distance routes, measures of connectivity with other routes in all regions currently receiving Amtrak service and the transportation needs of communities and populations that are not well-served by other forms of intercity transportation. Amtrak shall provide reasonable access to the Federal Railroad Administration in order to enable the Administration to carry out its duty under this section.

(b) **QUARTERLY REPORTS.**—The Administrator of the Federal Railroad Administration shall collect the necessary data and publish a quarterly report on the performance and service quality of intercity passenger train operations, including Amtrak's cost recovery, ridership, on-time performance and minutes of delay, causes of delay, on-board services, stations, facilities, equipment, and other services.

(c) **CONTRACTS WITH HOST RAIL CARRIERS.**—To the extent practicable, Amtrak and its host rail carriers shall incorporate the metrics and standards developed under subsection (a) into their access and service agreements.

(d) **ARBITRATION.**—If the development of the metrics and standards is not completed within the 180-day period required by subsection (a), any party involved in the development of those standards may petition the Surface Transportation Board to appoint an arbitrator to assist the parties in resolving their disputes through binding arbitration.

SEC. 208. [49 U.S.C. 24101 note] METHODOLOGIES FOR AMTRAK ROUTE AND SERVICE PLANNING DECISIONS.

(a) **METHODOLOGY DEVELOPMENT.**—Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall obtain the services of an independent entity to develop and recommend objective methodologies for Amtrak to use in determining what intercity rail passenger transportation routes and services it should provide, including the establishment of new routes, the elimination of existing routes, and the contraction or expansion of services or frequencies over such routes.

(b) **CONSIDERATIONS.**—Amtrak shall require the independent entity, in developing the methodologies described in subsection (a), to consider—

(1) the current and expected performance and service quality of intercity rail passenger transportation operations, including cost recovery, on-time performance, ridership, on-board services, stations, facilities, equipment, and other services;

(2) the connectivity of a route with other routes;

(3) the transportation needs of communities and populations that are not well served by intercity rail passenger transportation service or by other forms of intercity transportation;

(4) the methodologies of Amtrak and major intercity rail passenger transportation service providers in other countries for determining intercity passenger rail routes and services;

(5) the financial and operational effects on the overall network, including the effects on direct and indirect costs;

(6) the views of States, rail carriers that own infrastructure over which Amtrak operates, Interstate Compacts established by Congress and States, Amtrak employee representatives, stakeholder organizations, and other interested parties; and

(7) the funding levels that will be available under authorization levels that have been enacted into law.

(c) **RECOMMENDATIONS.**—Not later than 1 year after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, Amtrak shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the recommendations developed by the independent entity under subsection (a).

(d) **CONSIDERATION OF RECOMMENDATIONS.**—Not later than 90 days after the date on which the recommendations are transmitted under subsection (c), the Amtrak Board of Directors shall consider the adoption of each recommendation and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the

House of Representatives a report explaining the reasons for adopting or not adopting each recommendation.

SEC. 209. [49 U.S.C. 24101 note] STATE-SUPPORTED ROUTES.

(a) **IN GENERAL.**—Within 2 years after the date of enactment of this Act, the Amtrak Board of Directors, in consultation with the Secretary, the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, shall develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs among the States and Amtrak associated with trains operated on each of the routes described in section 24102(7)(B) and (D) and section 24702 that—

(1) ensures, within 5 years after the date of enactment of this Act, equal treatment in the provision of like services of all States and groups of States (including the District of Columbia); and

(2) allocates to each route the costs incurred only for the benefit of that route and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 route.

(b) **REVIEW.**—If Amtrak and the States (including the District of Columbia) in which Amtrak operates such routes do not voluntarily adopt and implement the methodology developed under subsection (a) in allocating costs and determining compensation for the provision of service in accordance with the date established therein, the Surface Transportation Board shall determine the appropriate methodology required under subsection (a) for such services in accordance with the procedures and procedural schedule applicable to a proceeding under section 24904(c) of title 49, United States Code, and require the full implementation of this methodology with regards to the provision of such service within 1 year after the Board's determination of the appropriate methodology.

(c) **USE OF CHAPTER 244 FUNDS.**—Funds provided to a State under chapter 244 of title 49, United States Code, may be used, as provided in that chapter, to pay capital costs determined in accordance with this section.

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SEC. 217. [49 U.S.C. 24702 note] ACCESS TO AMTRAK EQUIPMENT AND SERVICES.

If a State desires to select or selects an entity other than Amtrak to provide services required for the operation of an intercity passenger train route described in section 24102(7)(D) or 24702 of title 49, United States Code, the State may make an agreement with Amtrak to use facilities and equipment of, or have services provided by, Amtrak under terms agreed to by the State and Amtrak to enable the State to utilize an entity other than Amtrak to provide services required for operation of the route. If the parties cannot agree upon terms, and the Surface Transportation Board finds that access to Amtrak's facilities or equipment, or the provision of services by Amtrak, is necessary to carry out this provision and that the operation of Amtrak's other services will not be impaired thereby, the Surface Transportation Board shall, within 120 days after submission of the dispute, issue an order that the facili-

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ties and equipment be made available, and that services be provided, by Amtrak, and shall determine reasonable compensation, liability, and other terms for use of the facilities and equipment and provision of the services. Compensation shall be determined, as appropriate, in accordance with the methodology established pursuant to section 209 of this division, if available.

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TITLE III—INTERCITY PASSENGER RAIL POLICY

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SEC. 305. [49 U.S.C. 24101 note] NEXT GENERATION CORRIDOR TRAIN EQUIPMENT POOL.

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act, Amtrak shall establish a Next Generation Corridor Equipment Pool Committee, comprised of representatives of Amtrak, the Federal Railroad Administration, host freight railroad companies, passenger railroad equipment manufacturers, nonprofit organizations representing employees who perform overhaul and maintenance of passenger railroad equipment, interested States, and, as appropriate, other passenger railroad operators. The purpose of the Committee shall be to design, develop specifications for, and procure standardized next-generation corridor equipment.

(b) **FUNCTIONS.**—The Committee may—

- (1) determine the number of different types of equipment required, taking into account variations in operational needs and corridor infrastructure;
- (2) establish a pool of equipment to be used on corridor routes funded by participating States; and
- (3) subject to agreements between Amtrak and States, utilize services provided by Amtrak to design, maintain and remanufacture equipment.

(c) **COOPERATIVE AGREEMENTS.**—Amtrak and States participating in the Committee may enter into agreements for the funding, procurement, remanufacture, ownership, and management of corridor equipment, including equipment currently owned or leased by Amtrak and next-generation corridor equipment acquired as a result of the Committee’s actions.

(d) **FUNDING.**—In addition to the authorizations provided in this section, capital projects to carry out the purposes of this section shall be eligible for grants made pursuant to chapter 244 of title 49, United States Code.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary \$5,000,000 for fiscal year 2010, to remain available until expended, for grants to Amtrak and States participating in the Next Generation Corridor Train Equipment Pool Committee established under this section for the purpose of designing, developing specifications for, and initiating the procurement of an initial order of 1 or more types of standardized next-generation corridor train equipment.

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TITLE IV—RAILROAD SAFETY ENHANCEMENTS

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SEC. 416. [49 U.S.C. 20107 note] SAFETY INSPECTIONS IN MEXICO.

Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary certifies that-

- (1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States;
- (2) the inspections are being performed by employees that have received training similar to the training received by similar railroad employees in the United States;
- (3) inspection records that are required to be available to the crewmembers on board the train, including air slips and blue cards, are maintained in both English and Spanish, and such records are available to the Federal Railroad Administration for review; and
- (4) the Federal Railroad Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this section.

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TITLE VI—CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

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SEC. 601. AUTHORIZATION FOR CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized under sections 3, 14, and 17 of the National Capital Transportation Act of 1969 (sec. 9-1101.01 et seq., D.C. Official Code), for the purpose of financing in part the capital and preventive maintenance projects included in the Capital Improvement Program approved by the Board of Directors of the Transit Authority.

(2) DEFINITIONS.—In this section—

- (A) the term “Transit Authority” means the Washington Metropolitan Area Transit Authority established under Article III of the Compact; and
- (B) the term “Compact” means the Washington Metropolitan Area Transit Authority Compact (80 Stat. 1324; Public Law 89-774).

(b) USE OF FUNDS.—The Federal grants made pursuant to the authorization under this section shall be subject to the following limitations and conditions:

(1) The work for which such Federal grants are authorized shall be subject to the provisions of the Compact (consistent with the amendments to the Compact described in subsection (d)).

(2) Each such Federal grant shall be for 50 percent of the net project cost of the project involved, and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Consistent with the terms of the amendment to the Compact described in subsection (d)(1), any funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(3) Such Federal grants may be used only for the maintenance and upkeep of the systems of the Transit Authority as of the date of the enactment of this Act and may not be used to increase the mileage of the rail system.

(c) APPLICABILITY OF REQUIREMENTS FOR MASS TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS UNDER FEDERAL TRANSPORTATION LAW.—Except as specifically provided in this section, the use of any amounts appropriated pursuant to the authorization under this section shall be subject to the requirements applicable to capital projects for which funds are provided under chapter 53 of title 49, United States Code, except to the extent that the Secretary of Transportation determines that the requirements are inconsistent with the purposes of this section.

(d) AMENDMENTS TO COMPACT.—No amounts may be provided to the Transit Authority pursuant to the authorization under this section until the Transit Authority notifies the Secretary of Transportation that each of the following amendments to the Compact (and any further amendments which may be required to implement such amendments) have taken effect:

(1) (A) An amendment requiring that all payments by the local signatory governments for the Transit Authority for the purpose of matching any Federal funds appropriated in any given year authorized under subsection (a) for the cost of operating and maintaining the adopted regional system are made from amounts derived from dedicated funding sources.

(B) For purposes of this paragraph, the term “dedicated funding source” means any source of funding which is earmarked or required under State or local law to be used to match Federal appropriations authorized under this division for payments to the Transit Authority.

(2) An amendment establishing an Office of the Inspector General of the Transit Authority.

(3) An amendment expanding the Board of Directors of the Transit Authority to include 4 additional Directors appointed by the Administrator of General Services, of whom 2 shall be nonvoting and 2 shall be voting, and requiring one of the voting members so appointed to be a regular passenger and customer of the bus or rail service of the Transit Authority.

(e) ACCESS TO WIRELESS SERVICE IN METRORAIL SYSTEM.—

(1) **REQUIRING TRANSIT AUTHORITY TO PROVIDE ACCESS TO SERVICE.**—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that customers of the rail service of the Transit Authority have access within the rail system to services provided by any licensed wireless provider that notifies the Transit Authority (in accordance with such procedures as the Transit Authority may adopt) of its intent to offer service to the public, in accordance with the following timetable:

(A) Not later than 1 year after the date of the enactment of this Act, in the 20 underground rail station platforms with the highest volume of passenger traffic.

(B) Not later than 4 years after such date, throughout the rail system.

(2) **ACCESS OF WIRELESS PROVIDERS TO SYSTEM FOR UPGRADES AND MAINTENANCE.**—No amounts may be provided to the Transit Authority pursuant to the authorization under this section unless the Transit Authority ensures that each licensed wireless provider who provides service to the public within the rail system pursuant to paragraph (1) has access to the system on an ongoing basis (subject to such restrictions as the Transit Authority may impose to ensure that such access will not unduly impact rail operations or threaten the safety of customers or employees of the rail system) to carry out emergency repairs, routine maintenance, and upgrades to the service.

(3) **PERMITTING REASONABLE AND CUSTOMARY CHARGES.**—Nothing in this subsection may be construed to prohibit the Transit Authority from requiring a licensed wireless provider to pay reasonable and customary charges for access granted under this subsection.

(4) **REPORTS.**—Not later than 1 year after the date of the enactment of this Act, and each of the 3 years thereafter, the Transit Authority shall submit to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.

(5) **DEFINITION.**—In this subsection, the term “licensed wireless provider” means any provider of wireless services who is operating pursuant to a Federal license to offer such services to the public for profit.

(f) **AMOUNT.**—There are authorized to be appropriated to the Secretary of Transportation for grants under this section \$150,000,000 for each of fiscal years 2022 through 2030.

(g) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization under this section shall remain available until expended.

SEC. 602. FUNDING FOR INSPECTOR GENERAL.

(a) **DEFINITIONS.**—In this section:

(1) **COMPACT.**—The term “Compact” means the Washington Metropolitan Area Transit Authority Compact consented to by Congress under Public Law 89–774 (80 Stat. 1324).

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(2) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(3) TRANSIT AUTHORITY.—The term “Transit Authority” has the meaning given the term in section 601(a)(2).

(b) FUNDING FOR OFFICE OF INSPECTOR GENERAL OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.—Subject to subsection (c), of the amounts authorized to be appropriated for a fiscal year under section 601(f), the Secretary shall use \$5,000,000 for grants to the Transit Authority for use exclusively by the Office of Inspector General of the Transit Authority for the operations of the Office in accordance with Section 9 of Article III of the Compact, to remain available until expended.

(c) MATCHING INSPECTOR GENERAL FUNDS REQUIRED FROM TRANSIT AUTHORITY.—The Secretary may not provide any amounts to the Transit Authority for a fiscal year under subsection (b) until the Transit Authority notifies the Secretary that the Transit Authority has made available \$5,000,000 in non-Federal funds for that fiscal year for use exclusively by the Office of Inspector General of the Transit Authority for the operations of the Office in accordance with Section 9 of Article III of the Compact.

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